

## MEETING RECORD

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, October 18, 2000, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Russ Bayer, Jon Carlson, Steve Duvall, Linda Hunter, Gerry Krieser, Patte Newman, Tommy Taylor, Greg Schwinn and Cecil Steward; Kathleen Sellman, Ray Hill, Mike DeKalb, Jennifer Dam, Rick Houck, Nicole Fleck Tooze, Ed Zimmer, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular Planning Commission Meeting

Chair, Russ Bayer, called the meeting to order and requested a motion to approve the minutes for the regular meeting held October 4, 2000. Motion to approve made by Carlson, seconded by Duvall and carried 7-0: Bayer, Carlson, Duvall, Hunter, Newman, Schwinn and Steward voting 'yes'; Krieser abstaining; Taylor absent.

### **CONSENT AGENDA**

#### **PUBLIC HEARING & ADMINISTRATIVE ACTION**

##### **BEFORE PLANNING COMMISSION:**

October 18, 2000

Members present: Bayer, Carlson, Duvall, Hunter, Krieser, Newman, Taylor, Schwinn and Steward.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3286, SPECIAL PERMIT NO. 1860 AND FINAL PLAT NO. 00027, SUTHERLAND PARK 1<sup>ST</sup> ADDITION.**

Schwinn moved to approve the Consent Agenda, seconded by Steward and carried 9-0: Bayer, Carlson, Duvall, Hunter, Krieser, Newman, Taylor, Schwinn and Steward voting 'yes'.

Note: This is final action on Special Permit No. 1860 and the Sutherland Park 1<sup>st</sup> Addition Final Plat No. 00027, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**COMPREHENSIVE PLAN AMENDMENT NO. 94-58**  
**TO AMEND THE 1994 LINCOLN-LANCASTER COUNTY**  
**COMPREHENSIVE PLAN TO ADOPT THE BOULEVARD**  
**CONCEPT FOR PUBLIC WAY CORRIDORS.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**     October 18, 2000

Members present: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer.

Proponents

**1. Lynn Johnson of Parks and Recreation** summarized the history of this application and reviewed the proposal. This process has involved a number of agencies and organizations, i.e. the Bicycle and Pedestrian Advisory Committee, Urban Design Committee, Community Forestry Advisory Board, Parks & Recreation Advisory Committee, two public open houses, five meetings with the Home Builders Association and representatives of the development community and the private utility providers. It is hopeful that this proposal meets the needs and objectives.

These meetings resulted in two primary revisions to the proposal, which include the area of application being revised to only the roadways identified within the urban service area. The intent is that as additional transportation planning occurs and additional roadways are identified, the Public Way Corridor concept would be provided to those new roadways as well. In order to implement this proposal, amendments to the zoning and subdivision codes would be initiated. The intent is that the amendments to the zoning and subdivision codes would be reviewed and approved before implementing the standards of this proposal.

The Planning Commission has had four hearings on this proposal. The last meeting with the development community involved the following proposals:

1.     100' wide corridor at the intersections as well as the mid-sections of the block, which includes 80' of pavement or roadway at the principal intersections allowing two through traffic movements, two left turn traffic movements, and right turn pocket. Based on a recommendation from the Community Forestry Advisory Board, street trees were moved from behind the property line to between the sidewalk and the curb. There are underground utilities located immediately behind the curb and this will provide adequate space for those underground utilities. At the principal intersection there would be a 4' sidewalk, but generally the trails would not be in this corridor. One of the primary objectives is to take a look at what these corners actually look like to the pedestrian or driver. This would involve 4' between the sidewalk and the curb; then another small area; then

typically board fences; then street trees; then landscaping that buffers the residential located behind the fence. The Bicycle Pedestrian Advisory Committee wanted additional width between the sidewalk and the curb for physical safety and psychological comfort. From an aesthetic standpoint, the intent was to screen or buffer those fences with landscaping. The proposal also contains provisions that this corridor does not have to be 140' of right-of-way. With the Long Range Transportation Plan (LRTP) and what has been approved by the City Council, at this point we have a 120' wide corridor. The landscaping and fences could occur as easements on private property or in an outlot.

2. 130'/112' corridor maintaining the same 80' wide roadway or paved area at the intersections, which narrows down at the area between the curb and sidewalk to 10', which would be an absolute minimum; 4' sidewalk on either side and then an area of landscaping of shrubs and not evergreen trees. This proposal would narrow down the corridor with a narrower median in the center that would allow for a left turn pocket. There would be 10' for utilities and street trees, 4' for sidewalks and a zone for plantings along the fence line. The current standard with LRTP is 120'.

Johnson then advised, however, that the staff recommendation is still the 140' corridor, both at principal intersections and the mid-sections. It allows the greatest flexibility over the long term; allows for additional things to change as the community changes; and allows for additional large intersections to occur mid-mile.

Steward referred to the proposed language, "Figure 32a illustrates the area of application.....Fringe Area Public Way Corridors are predominantly defined by the mile section line roadway framework as it extends beyond the current City Limit and is generally associated with Lincoln's Future Urban Area Boundary." Steward interprets this to mean that we would have comprehensive and sectoral planning flexibility in the future to define these corridors off of the one-mile if circumstances call for it. Nicole Fleck-Tooze of the Planning staff explained that it would require a separate comprehensive plan amendment, but it could be accomplished and would be evaluated at the time the roadways are designated.

### Opposition

1. **Mark Hunzeker** appeared on behalf of the **Home Builders Association of Lincoln and Lincoln Board of Realtors** in opposition. This is a proposal which will extract an excessive amount of right-of-way (r.o.w.) from every subdivision abutting a section line road within the Future Urban Area. 140' of r.o.w. is not required to do what is necessary to transport people around in this community. None of the streets identified in the LRTP indicate a need for this much r.o.w. We have asked and there has been no response to

the question of, "Where else on the planet does a requirement of this magnitude exist?" A lot of this relates to aesthetics and to providing a pleasant view as you drive along these streets. It would be very, very difficult under the Supreme Court standards, both here in Nebraska and federally, to justify requiring dedication of this much r.o.w. in any development, particularly a residential development. It amounts to taking an additional 10 acres of land out of every single section bordered by these rights-of-way. 10 acres equates to something between 30-40 dwelling units. This is something that will contribute to, and will not improve, the concerns with respect to sprawl and using additional land for the same number of dwelling units. It seems that there are a large number of concerns which have been raised, some of which are addressed by the staff saying it doesn't have to all be r.o.w., but rather waivers of setbacks, easements, etc.; however, none of those regulations have been proposed, and the staff is saying they will not implement this concept until such time as those regulations come forward. Yet, Hunzeker is involved in at least two projects where this concept is being thrust upon developers basically saying "this is what we are going to require and if you don't agree to it, we're going to have a problem". This amendment should not go forward until we see those regulations. We think the existing 100' corridor with the additional 5' on either side, saying you shall not put a fence on the property line, will provide all the room that is necessary.

In addition, Hunzeker believes the alternative discussed in the meeting was 110' (not 112').

Hunzeker stated that his clients are willing to address compromises on these issues but they have not yet seen any regulatory proposals that will assure that those things are going to be implemented in a way that works.

Hunzeker requested that this Comprehensive Plan Amendment not be adopted and, at a minimum, placed on the pending list until proposed regulations come forward. Or in lieu of the 140' corridor concept, Hunzeker submitted the following alternative:

In lieu of the adoption of Comprehensive Plan Amendment No. 94-58, the Planning Commission recommends that the Planning Department be directed to pursue amendments to the Zoning Ordinance and Design Standards for screening and landscaping to provide that required landscape screens abutting arterial streets be of live plant material; that fences be placed a minimum of 5 feet outside the street right-of-way to allow for such landscaping; and that such fences include a gate permitting access for maintenance of the landscape screen and the right-of-way abutting the private property.

The staff has not had the opportunity to review this alternative, but Hunzeker does not believe this proposal is urgent.

Schwinn noted that the way we negotiate development in this community has made the front page of the newspaper and it becomes public knowledge. As you go forward with the plans you are working with now, are there concessions from the city in terms of granting these rights-of way? Is the city willing to pay for this right-of-way? Hunzeker answered, "no". If there were regulations adopted that said it had to be dedicated he believes the City would ultimately have to pay for it. He does not believe there has been any discussion about the cost of this and how it is going to be maintained.

Hunter recalled testimony previously that this would add about \$750 to the cost of a home in an average development. Hunzeker believes it will be costly. Acquisition of the right-of-way is expensive; the concept of building 28' wide medians, etc. is more costly; there have been some numbers that have been submitted and shifted around. There is no dispute over the fact that this is going to cost a lot more money annually to maintain 140' of right-of-way.

**2. Kent Seacrest** appeared on behalf of **Ridge Development Company and Southview, Inc.** in opposition. They have participated in some of the meetings with staff and they are "not quite there" on a lot of fronts. The proposal shown today was probably instigated by Seacrest's thinking. The citizen expects our right-of-way to move traffic, provide utility easements, and aesthetics. Some of the community prioritizes that and would pay for it, but other parts would not prioritize that or they would put it in the interior of the subdivision along the drainage ways instead of on a high traffic high speed street. While this policy is aesthetically pleasing, it will cost a considerable amount of money for acquisition and maintenance. He cautioned that the worst thing to do is get all this space and not do it correctly. Buffalo grass is not the solution. Seacrest submitted that the Comprehensive Plan credibility is at stake. Too often we have not figured out the important details. We put a concept in and then we don't follow through with the details. We load the Comprehensive Plan up with things that we don't implement. This proposal needs to be put on pending to work on the details to see if it is viable. If the details are viable, then we can put it in the Comprehensive Plan along with the design standards and go for it. If the details are not viable, then don't do it. Are we being fair to the Parks Department? He is scared that this extra cost will end up on their back. Will they get extra money or will it come out of the Parks budget? Is the city ready to go fund the other half of the right-of-way? This question has not been answered and it is imperative. The money has to be balanced with other public interests. The bike trails should not be on the arterials at all, except in a handful of cases. The bike trail should go up the drainageways. We should not be trying to master plan the bike trails on the arterials.

Seacrest appreciates the comments by Public Works that this is a four lane plan. But he thinks it should be sent back for more work. We need to figure out who is paying, and what type of landscape materials we are really going after. Who is going to maintain it? Where are the fences? He does not like the amendment that limits the number of corridors. We should be going out even further if we're going to do this. Why aren't we

getting the County to go out early and acquire the right-of-way? The County needs to be brought into this process.

Staff questions

Carlson indicated that he has attended a lot of the meetings and he wonders whether the questions that were raised have been addressed at those meetings. Fleck-Tooze explained that as we go forward with these corridors we will be looking at grading the entire cross-section, with the concept of having the plantings completed at the same time as the street trees. It may be that there would be circumstances in which the city would need to acquire r.o.w. on the other side of the centerline. She reminded the Commission that the County Engineer used to have 66' of r.o.w. on the county road network and in nearly all the corridors identified here, the County Engineer is requiring 100'. We've talked about trying to implement this concept in a way that may not require additional right-of-way, such as outlots, easements, etc., to accommodate the landscaping and trail or sidewalk, so it may or may not be 140' of r.o.w.

Carlson wondered whether there is language that makes implementation contingent upon statutory approval. Fleck-Tooze pointed out that the revised staff recommendation on September 6th did add the following language:

Ordinance and design standard revisions....are intended to be adopted to implement the Boulevard Concept. In particular, revisions recommended relative to lot depth and setback requirements should be adopted prior to implementing the concept.

The staff has made a commitment to make the ordinance changes prior to implementing the concept. These changes are laid out quite specifically in the study document. If this amendment were adopted, there would be a period of time before it is implemented where staff would be making the revisions to the design standards and ordinances as recommended by the study.

Carlson wanted to know how to tell the difference between a recommendation and a requirement. Fleck-Tooze believes that if 140' were the amendment, it would be clear that that was not a requirement until we have the ordinances in place. If there were a way to look at possibilities for outlots or other things to compose a larger corridor as subdivisions come forward, there is no reason it couldn't be raised for discussion. The requirement would not be in place until the ordinance changes had been completed.

Carlson inquired whether the issue of maintenance of landscape materials has been addressed. Fleck-Tooze noted that today, in general, there is a requirement that the abutting property owners maintain the area between their property line and the curb, so there is today such a requirement for maintenance. That would stay the same and would

not change. This proposal simply pulls the street trees and landscape screen into that corridor and it becomes an amenity on both sides.

Carlson wanted to know whether staff believes the details have been addressed. Fleck-Tooze believes that they have. The staff has responded to comments; has made revisions; and has made commitment to do the amendments to the ordinances. This is a Comprehensive Plan Amendment. The Comprehensive Plan is a guide for direction and that is typically the first step – developing a concept. The opponents are wanting greater design detail.

Hunter wanted confirmation that the city has the capability of taking care of these boulevards (center medians), or will they wind up being weed traps? She lives inside the city and the city cannot maintain her boulevard. How is the city going to take care of these boulevards? Lynn Johnson of Parks & Recreation stated that the proposal is for minimum maintenance grasses that only require mowing once or twice a year. It will be buffalo grass. If there is an interest by the business owners or homeowners association, the recommendation would be that those people participate not only in funding the improvements but also in the ongoing maintenance. He used the Country Club area as an example. We will see something similar to what Capitol Parkway looks like between 27<sup>th</sup> & A now – small ornamental trees and low maintenance turf of buffalo grass or some similar species. It will not be irrigated turf; it will not be dark green during the summer. By providing the space for snow storage on these medians, we can shift some resources to make sure we are on these boulevards two or three times a year.

#### Response by the Applicant

**Allan Abbott, Director of Public Works and Utilities** gave the rebuttal testimony. He agrees that this r.o.w. is not needed to transport people if we're talking about width needed for automobiles. It is an aesthetics and an amenity issue for which the additional r.o.w. is being requested. The pavement width remains essentially the same in all alternatives. Whether sidewalks or trails are appropriate alongside an arterial is in the view of the beholder. Most people, most planning agencies and most highway transportation agencies recognize sidewalks and trails as an integral part of the transportation system today. If we are trying to get people out of their cars, the inclusion of trails and sidewalks along arterials is not unusual. He does agree, however, that trails for recreational purposes are best off the arterials.

Will we be asking the developer to dedicate all r.o.w.? We currently have the Infrastructure Financing Study in process which is anticipated to conclude at the end of this year with the hope of having the methodology of how we are going to proceed with the developer's fair share and the city's fair share, and whether the r.o.w. is 140' or 120' will not affect that decision.

Abbott acknowledged that the criteria of for these amendments to the ordinance have not been developed; however, he has only been with the city for 18 months and he has not found where the city has not followed through on its commitment. We will come up with the amendments to the ordinances.

Have we been negotiating for 140'? Abbott stated, "yes". It would not make much sense, knowing that we have development occurring along roadways which are part of this fringe development, to stick with the 100' or 120' that we now have without at least attempting to negotiate for more, but he clarified that the city is not demanding it.

Cost and maintenance are all issues and are a concern, and yes, it will cost more. The cost is something that must be considered before this moves forward. It comes down to what we want our city to look like within the fringe areas. He wishes we would have had this vision for 27<sup>th</sup>, 84<sup>th</sup>, Pine Lake, etc., because it would be a lot less traumatic now. Abbott urged the Commission to look 25-30 years into the future.

Abbott stated that sending this proposal back is not an option. We've been here four times. We do have disagreements. He does not know what else we can talk about. We have different interests at stake here. The city is trying to represent the community views as well. Please do not defer this proposal any further.

As far as what has been discussed, Abbott referred to the LRTP which is now approved with 120' r.o.w. between intersections. 140' at the intersection is an option. Staff recommends 140' and requests that this be acted upon today.

As to the possibility of placing this amendment on pending, Rick Peo, City Law Department, advised that it would not be appropriate. The applicant does not desire to have it on pending and without their concurrence the Charter requires the Planning Commission to make a recommendation to the City Council within a reasonable length of time. If the Commission believes there are deficiencies in the Comprehensive Plan Amendment, that might be reason to recommend denial, but it should not be placed on pending.

Hunter wanted clarification that whether the recommendation is 120' or 140', it does not impede our ability to increase traffic lanes. Abbott advised that traffic lanes within the 120' or 140' r.o.w. are the same. The median width at 112' does not allow dual lefts. The additional 20' is aesthetics, amenities, space for utilities, etc. The 140' is not for pavement for moving vehicles.

Schwinn asked Abbott to respond to the allegation that the staff has not made any compromises. If you are faced with a vote of no or a compromise, what is your fallback position? Abbott believes that requires a definition of "compromise". He believes the staff started at 150' to 160' r.o.w. It has been reduced to 140' as a result of a lot of discussions



within the area. We have 120' within the LRTP. He agreed that the staff has not narrowed 10' and has not come down to 112', which is less than what we have now.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Motion #1. Steward moved approval of the staff recommendation, seconded by Newman.

Steward does not think this proposal is ever going to be perfect and comfortable for everyone. This is a master planning comprehensive planning issue. It suggests a change in attitude and philosophy on the part of the city--not just about the amount of land required, but about the aesthetic and character of major arterials within the city. If this decision had been made 20 years ago, we would have a city that was pleasing and attractive with a more effective alternative transportation system that more and more people might be using. Personally, he believes that if we were going to do this absolutely to the best of our capability, we might have put it off until the Comprehensive Plan revision process and look at a whole range of interconnected and interdependent kinds of decisions, such as bike trails, topographies, the one-mile section line, etc. He is recommending that this amendment be approved on the basis that he believes this is the best direction with the longest view for corridor acquisition that the city can take. He believes it is unrealistic and a bit imperialist for the development community to threaten the process with higher cost for the consumer. Higher cost out of this proposal simply means that it might be if we do business as usual in between the one-mile intersections. This process is likely to have an impact on subdivision structures, on certain density characteristics, and other ways to accommodate maximizing the land use in between. He would guess that the comment is correct that there might be several hundred dollars if we continue to plan the same way that we have been in between major arterials, but that is another subarea plan question--the whole county plan is a question. We need to get on with this decision.

Schwinn agreed with Steward about promoting new land use issues or ways we look at land use and he would like to see more land use issue changes in the way we do development; however, he will vote in opposition. We have not shown anything in traffic engineering manuals; we're cutting new ground here; if we want to do this as a city, the city needs to work in partnership with the developer to create the first mold rather than putting it in the Comprehensive Plan before we even see that it works; he has not seen a constituency backing this; there is nothing that makes room for any kind of public transit; the gas company is not here; Time Warner is not here; Alltel is not here; the public has not indicated much support other than the Audubon Society; and we've already gone to 120' on the LRTP so we're already moving toward a little wider corridor. He is not sure we need to build these monuments to our automobiles. You want to see these amenities where you

an enjoy them—not where you are driving 35-55 mph. It has not been demonstrated that we have a need.

Carlson commented that people keep you using aesthetics in a negative sense and he is not sure why that is. Some of it is psychological. 27th between A and South is four lanes but the houses literally hang over the street. The negative aesthetics can have a blighting influence on the neighborhood. Aesthetics can have a genuine economic and livability impact. If we can get out into the county, this is an example of beginning to get ahead of the curve. We need to respond to opportunity as opposed to responding to crisis. He believes this is an instance where we are trying to respond to opportunity and the aesthetics are very important and translate into a more livable community and take away a potential crisis situation.

Taylor agreed with Steward and partly with Schwinn, except he does not see any constituencies here in support or that say we need this. He commends the staff for the great work they are doing. He likes the idea and the aesthetics. He supports this.

Newman attended the East “O” street meetings and people screamed, “why don’t we look 20-40-50 years in the future?” That is the constituency and they will be here in another 20 years if we don’t pass this.

Bayer stated that he will vote in opposition because he thinks 140' is too much. He does strategic planning and there is a philosophy that says “form follows function”. He ended up thinking whether we need 140'. He was stuck there. It comes to what our vision is for the future. He does not want trails on the boulevard. He does not want to live on a boulevard that is 140' wide. He liked the 130'/112' alternative because it broke up the drive. He wants it to happen but he does not want it to happen breaking the bank of the community not being able to maintain it.

Vote on Motion #1. Motion for approval failed 4-5: Carlson, Steward, Newman and Taylor voting ‘yes’; Duvall, Krieser, Hunter, Schwinn and Bayer voting ‘no’.

Steward wanted to recommend sending this proposal to the Comprehensive Plan Committee without a designation of width. This would, in a sense, give more time that has been asked for, but more importantly, he believes it ties the ball squarely to the overall objective of the comprehensive plan revision and that is where he would like to head.

Hunter has supported this amendment ever since it was first published, but she has spent a lot of time in the past couple of weeks driving down 27<sup>th</sup> up to Pine Lake and she sees an intersection at Pine Lake and 27<sup>th</sup> which resembles what we are talking about and it is absolutely huge. We need some future planning and that is going to require us to step out a little further and plan for that footage. We’re saying the paths are going to be next to the roads and she thinks it is more thoughtful to be looking at these paths to be put in the

developments where they are more user-friendly. While looking at costs, if we are not impeding the establishment of the number of lanes that may be needed for traffic and still providing an aesthetic value, then she thinks that is where the compromise has to come in. The 140' situation all the way down in her opinion is, on a long range basis, more than we need, and the cost to the city and the people is overwhelming.

Rick Peo suggested that referring this to the Comprehensive Plan Committee would equate to pending status. The applicant is requesting a recommendation of approval or denial. The Planning Commission responsibility is to review Comprehensive Plan Amendments proposed by the Planning Director and make a recommendation within a reasonable length of time. It is not the Commission's prerogative to say they are not going to make a decision.

Motion #2. Bayer moved approval, replacing 140' with the 130'/112' alternative as presented by staff, seconded by Krieser. This would be 130' at the intersections and 112' at the mid-section.

Steward wonders why the Commission is having so much difficulty with this decision. What does this do for the 120' that has already been approved in the LRTP? The logic here escapes him. We are about to make a decision that may become an interim decision within a short period of time. Where does that leave the City in negotiations? We're setting up another barrier for working relationships by moving in this direction.

Hunter is uncomfortable and her thought in the whole situation was that we probably need some of these wide corridors at the intersections because of turn lanes, etc. She asked staff if this was something that is absolute implementation or the maximum potential and the answer she got was that it was the maximum potential. She has heard comments to the contrary. So she is not comfortable as the maximum may not be appropriate in some areas. She does not want to make a number less than something that has already been adopted.

Taylor understood that this would be the maximum that could be utilized and not necessarily implemented all at once. Bayer guaranteed that it is the maximum.

Bayer went on stating that 140' was never what they were going to do everywhere—it is what they wanted to have the flexibility to do. The question becomes, do we want government to ask for more when they need it? Or give them what they've asked for and trust that they will use it wisely? 140' was not a mandate to take 140' on every road—it was to give flexibility. Bayer made this motion of 130'/112' based on what has been submitted because he believes that will get us to where we need to be and if there are special circumstances, let's have them come back.

Bayer also pointed out again that the Planning Commission is a recommending body. Whatever we do is our recommendation. It is clear today that we have put thought into this decision. In this case, we're passing something on to the Council.

Carlson believes it is more appropriate that the recommendation not be 140' and hope that the Council reads the minutes. Bayer believes his motion does that. Just as the Planning Commission can easily change the number, he believes the staff will still recommend 140' to the City Council.

Duvall believes the Commissioners are getting caught up in defining things that go against the original intent. "We are tripping ourselves up here".

Vote on Motion #2. Motion to approve Comprehensive Plan Amendment No. 94-58, as set forth in the staff recommendation dated September 6, 2000, with amendment replacing 140' with 130'/112' failed 4-5: Duvall, Krieser, Schwinn and Bayer voting 'yes'; Carlson, Steward, Hunter, Newman and Taylor voting 'no'.

Motion #3. Hunter moved to approve the Comprehensive Plan Amendment as set forth on the revised staff recommendation dated September 6, 2000, with amendment to a 130'/120' alternate, seconded by Schwinn.

Hunter pointed out that this complies with the LRTP that was recently approved at 120' mid-section. The difference is that we change the landscaping opportunity.

Steward asked staff whether this recommendation of 120' mid-section eliminates the boulevard. Fleck-Tooze advised that it would not eliminate the boulevard between intersections but would make it narrower. Most of the width would come from the edges between the sidewalk and the property line with less opportunity for the landscape screen. She believes it would maintain the boulevard concept.

Carlson believes it should be 5' on the other side of the landscaping opportunity. What is the change in landscaping opportunity at 130' versus 140'? It was explained that the 130' is at the intersection. This gives 10' between the sidewalk and the property line. Bayer suggested that this gives 120' corridor for the staff to do what has been proposed similar to the diagrams. The 120' provides a greater amount of distance between the sidewalk and the property line. We're identifying 120' mid-section corridors similar to the diagrams but the dimensions are not exact.

Hunter does not believe anyone is saying it has to look exactly like the diagram. She fully expects to see developers in here opposing this with their development projects, and she fully intends to look at each one of those situations with a watchful eye.

Fleck-Tooze advised that it was intended to be the full width but all dimensions in between were for the benefit of showing how they could be distributed but not specific and exact.

Carlson wanted to know whether the City Council could increase or decrease the Planning Commission recommendation. Peo advised that the City Council can approve or deny the PC recommendation. To change a recommendation to revert to a different number than recommended by the Planning Commission, it would take 5 Council votes. In other words, whatever the Planning Commission adopts, it will take five votes of the Council to change the Planning Commission recommendation.

Vote on Motion #3. Motion to approve the revised Planning staff recommendation dated September 6, 2000, with amendment to the 130'/120' corridor failed 4-5: Krieser, Hunter, Schwinn and Bayer voting 'yes'; Duvall, Carlson, Steward, Newman and Taylor voting 'no'.

Motion #4 and Vote on Motion #4. Schwinn moved to deny the Comprehensive Plan Amendment, seconded by Duvall and carried 5-4: Duvall, Krieser, Hunter, Schwinn and Bayer voting 'yes'; Carlson, Steward, Newman and Taylor voting 'no'.

Motion #5 - **Reconsideration**. After a brief recess, Hunter moved to reconsider the action taken on Comprehensive Plan Amendment No. 94-58, seconded by Bayer.

Hunter believes we need to move this forward and our vote to deny puts this issue on non-movement. She believes there was some confusion in terms of how the Commissioners voted.

Vote on Motion #5 - **Reconsideration**. Motion to reconsider carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

Motion #6 - **Reconsideration**. Hunter moved to approve the Planning staff recommendation of September 6, 2000, with amendment to a 130'/120' corridor, seconded by Steward.

Motion to amend Motion #6. Taylor moved to amend to 136'/120'. Motion failed for lack of a second.

Steward noted that he had previously voted against this recommendation, but he will support it at this point. He explained that as a member of the Comprehensive Plan study committee, he can assure that at least within that committee this will be seriously, broadly and comprehensively discussed. He will support this motion for the sake of what he believes will be lack of disruption in developer/planning staff relationships in the interim.

Carlson stated that he will support the motion because he thinks the concept is important and he is not satisfied with a recommendation of denial. The idea is important but the numbers are at issue.

Vote on Motion #6. Motion to approve the Planning staff recommendation as revised on September 6, 2000, with amendment to a 130'/120' corridor carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

**CHANGE OF ZONE NO. 3258**  
**FROM AGR TO R-3 RESIDENTIAL**  
**and**  
**PRELIMINARY PLAT NO. 00013,**  
**ASPEN RIDGE,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S.W. 24TH AND WEST "A" STREETS.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 18, 2000

Members present: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer.

Planning staff recommendation: Approval of the change of zone and conditional approval of the preliminary plat.

Jennifer Dam of Planning staff submitted a letter from the West A Neighborhood Association in support.

Proponents

**1. Tom Cajka of Ross Engineering** gave a brief overview of the project. This project is for 59 lots--55 single family lots and four duplex lots--and three outlots. The duplex lots would be Lots 1, 2, 3 and 4; the remaining portion is single family, with entrances at West Washington going through to S.W. 27<sup>th</sup> Street, which will be the main entrance into the project. Future development in the area to the south would show connections to 26<sup>th</sup> and 25<sup>th</sup> Streets. They are showing a detention cell. The streets will be normal residential street widths with sidewalks on both sides. Phase I is for 18 lots on the east side of the detention cell.

Condition #1.1.7 requires the developer to provide a temporary turnaround at the southern terminus of S.W. 26th Street. Cajka believes the proposal meets the design standards and requested that this condition be deleted. He believes Public Works is in agreement.

Condition #1.1.12 requires the applicant to show W. Garfield going through to S.W. 27th Street. Cajka advised that they are showing Garfield Street to potentially be developed as a cul-de-sac. The Ldn 70 line may be redone in the future if the Airport proceeds with a new noise study. In this case, the developer believes he will be able to develop this area within 1.5 years. If the Ldn line remains the same, residential use is not allowed above the Ldn 70 line and the applicant would probably come back and request commercial zoning. They would not want a street to go through the commercial area if that is the case. Also, the cul-de-sac would be pulled back approximately 130', shortening the length of W. Garfield Street. The cul-de-sac would also give potential buyers the opportunity and the variety to choose between living on a dead-end cul-de-sac or a through street like W. Washington. There is still access to S.W. 27<sup>th</sup> on W. Washington and when the south part develops, another road could be requested at that time. Cajka believes that Duane Hartman is intending to do that with his development of the area to the south. Cajka does not believe Public Works has a problem with the cul-de-sac. If W. Garfield remains as a cul-de-sac, Condition #1.1.13 should be amended to show two outlots north and south of West Washington, as opposed to three.

Condition #1.1.17 requires that the final design of the detention area and outlet structures be provided prior to grading. Cajka needs clarification whether this means prior to any grading or if that means finished grading. With approval of the NOI permit they would want to be allowed to do clearing, rubbing, stripping and rough grading while the final detention calculations are being submitted. Cajka suggested that the word "final" be inserted before "grading" in Condition #1.1.17.

There was no testimony in opposition.

Duvall asked staff about West Garfield becoming a cul-de-sac. Dam stated that staff has requested that W. Garfield Street go through as an application for development of the property to the south has not been submitted. The length of the proposed cul-de-sac does not exceed current design standards but staff is recommending a through street to provide more than one way into the development.

With regard to #1.1.7 (to provide a temporary turn-around at the southern terminus of S.W. 26th Street), Public Works thought they could use the intersection at W. Garfield for the turnaround so it was agreed that Condition #1.1.7 could be deleted.

Dennis Bartels of Public Works advised that the intent for Condition #1.1.17 (grading issue) was to have the design prior to the "final" grading. He does not object to what Cajka described, but he is not sure how to revise the condition.

Carlson noted the letter from the West A Neighborhood Association, asking that they be contacted if any changes are made. Not having W. Garfield go through might be a change to them. Cajka has not discussed the changes with the neighborhood. He has not

discussed West Garfield not going through with the neighbors, but he believes overall they approved the project.

Steward wondered whether Outlot C would require another plat to be developed. He was advised that it would need another plat. Steward then observed that it could end up being anything and there is no guarantee if they show West Garfield going through now.

Public hearing was closed.

**CHANGE OF ZONE NO. 3258**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION**

October 18, 2000

Duvall moved approval, seconded by Hunter and carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

**PRELIMINARY PLAT NO. 00013**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Duvall moved to approve the Planning staff recommendation of conditional approval, with amendment to delete Condition #1.1.7, deleting #1.1.12, amending #1.1.13 to "two" outlots, and amending Condition #1.1.17 to insert the word "final" prior to "grading", seconded by Hunter and carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

**CHANGE OF ZONE NO. 3263**

**FROM B-1 LOCAL BUSINESS AND R-3 RESIDENTIAL  
TO B-2 PLANNED NEIGHBORHOOD BUSINESS,**

**and**

**USE PERMIT NO. 130**

**FOR 134,500 SQ. FT. OF COMMERCIAL, RETAIL AND  
RESTAURANT USES,**

**and**

**PRELIMINARY PLAT NO. 00016,**

**PIONEER WOODS,**

**ON PROPERTY GENERALLY LOCATED**

**AT SOUTH 70TH STREET AND PIONEERS BLVD.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 18, 2000

Members present: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer.



Planning staff recommendation: Approval of the change of zone; conditional approval of the use permit and preliminary plat.

Proponents

**1. Mike Rierden and Gary Bredehoft** presented the application on behalf of the applicant. Rierden withdrew the request to waive the front yard setback along 70th Street and Pioneers Blvd. on the use permit, and withdrew the request to waive the standard cross-section grade on the preliminary plat.

Rierden explained the proposal is a request for B-2 zoning on property consisting of a 1.7 acre tract of B-1 and about 15.5 acres of R-3, or a total of 17.3 acres, in a change of zone and use permit. Approval would allow 134,500 sq. ft. of retail on this corner, which equates to an FAR of .18 which is well below the FAR of .25 recommended in the Comprehensive Plan.

Rierden indicated that they have met with the Fox Hollow Neighborhood and the Fox Hollow 2<sup>nd</sup> Neighborhood to the east. Unfortunately, they were unable to meet with Colonial Hills (which is somewhat removed from the area) because they could not schedule a meeting until October 25th. In those meetings, the only real objection was from Fox Hollow. They were disappointed about there being no theaters in this proposal.

Of course, traffic is always an issue and the applicant did provide a traffic impact analysis. Rierden submitted a letter from Virendra A. Singh, Long Term Planning Manager for the Engineering Services Division of Public Works & Utilities dated October 4, 2000, which consists of the agreements reached as far as off-site improvements. There will be a written agreement for off-site improvements when this application is heard by the City Council.

Lighting is always an issue. Rierden observed that this proposal is in close proximity to Hyde Observatory. They have met with a representative of Hyde and will meet with the Board of Directors of Hyde. Rierden assured that if there are problems and concerns, the applicant will address those concerns prior to reaching City Council. There is a new lighting ordinance and this development does not intend to even come close to the maximum allowed lighting under that ordinance.

With regard to architectural impact, Rierden submitted color renderings of the "Pioneer Woods Design Statement" setting forth the proposed architectural theme.

With regard to noise, this developer has agreed that there will not be a grocery store in this center. The topography and land use help in the noise area because there is commercial to the south, to the west is Elizabeth Plaza and the cemetery, to the north is

Holmes Lake Dog Run and to the east is a very wide area of the Holmes Lake drainage easement, thus this development is buffered well on all sides.

With regard to the tree mass, Rierden could not say there would not be any trees removed, but they do intend to replace those removed with good quality trees.

The proposal shows more than adequate parking. Since they have consented to withdraw the front yard setback waiver, they will lose 20-25 parking stalls, reducing 714 parking stalls to 680+ parking stalls.

Rierden agreed with all staff conditions of approval, except Condition #1.1.5 of the use permit, and Condition #1.1.2 of the preliminary plat. He requested that condition be amended to read:

The driveways shown within the intersection left turn lane stacking of the Pioneer Woods Drive intersection with 70th and with Pioneers Boulevard be constructed to the satisfaction of Public Works & Utilities.

The applicant also requested that condition #1.1.19 of the use permit be deleted, which requires that the floor elevation on Lot 2 be lowered to 1286 and the site graded to match the grade of 70th Street. Bredehoft advised that this refers to design of the parking lot. The way they are showing it does not violate any design standards, and Public Works has approved this parking lot design. This condition came from Planning. The applicant desires that this condition be deleted because of the drastic cut. We're not violating any design standards and we want to keep our parking lot grades within 3-4 percent. This would cause some slopes that would not be very desirable. Bredehoft then submitted photographs of examples of other developments where the parking lots do not match the grade of the street, i.e. Macaroni Grill, Chili's, Outback Steakhouse, and Continental Western Insurance.

Carlson wondered whether the applicant would object to a condition requiring satisfaction by Hyde Observatory. Rierden would prefer not to have a specific condition. He guaranteed that they will work with Hyde to satisfy them as far as the lighting concern before this application is heard by the City Council.

### Opposition

**1. Russell Miller**, 341 So. 52<sup>nd</sup> Street, testified in opposition because: 1) fill in the floodplain. He knows that is their legal right; however, they should be required to get their fill from someplace in the floodplain instead of off the top of a hill. It would be a nice gesture for them to do that even though there are no requirements. 2) more importantly, he is opposed because they want to delete the requirement for detention ponds and this must not be allowed. History repeats itself because no one listens the first time. Beal

Slough is documented history. He submitted a graph representing current engineering data showing the consequences of granting waivers. The Beal Slough plan states it will cost 15 million dollars to do a partial fix. That \$15 million dollars will be paid by taxes and not by the parties that contributed to the problem. Beal Slough was built piecemeal with no concern about the overall consequences that showed up 25 years later. What is happening to the areas downstream of this project? Pavement and roof tops will increase the quantity and the speed of the stormwater. Detention ponds are needed to maintain the current status quo. A clear message needs to be sent that Beal Slough will not be repeated and detention ponds will be required with no exceptions.

Carlson inquired whether Beal Slough is being submitted as an example of not requiring stormwater detention ponds? Miller stated, "yes, it is an example of what will occur if the detention ponds are waived".

Hunter asked staff to respond to the waiver of the stormwater detention. Dennis Bartels of Public Works advised that there is no private property between this development and the Holmes Lake dam project. The stormwater detention requirement does not reduce the total amount of flow that comes off the property. His opinion was that metering the rate that it enters Antelope Creek was immaterial at this point. He agrees that development is going to increase the amount of runoff, but slowing it down getting it to Antelope Creek is not going to be a help or hindrance as far as discharge from the Holmes Lake dam at this location. Hunter wanted to know what would help. Bartels explained that the ordinance does not require them to retain the water on the site. It only requires that it be discharged at a similar rate. The additional runoff that doesn't soak in is going to go to the stream whether detention is there or not. With Holmes Lake immediately downstream, it will not be of any benefit to Holmes Lake to have the detention. There is minor grading in the floodplain but it is addressed by the conditions. This location is probably 10' higher than the 100 year floodplain. Portions of it are into the area of the Holmes Lake easement, so they will need specific permission from the Corps to infringe into that area and he suspects they will have to compensate for any fill in that easement or prove to the Corps that it isn't a problem for Holmes Lake.

Bartels agreed with the amendment to Condition #1.1.5 of the use permit and #1.1.2 of the plat to provide the opportunity for further negotiation on the driveways.

With regard to the grading activity, Ray Hill of Planning staff advised that the plan submitted by the applicant indicates that there is actually more cut in the Holmes Lake detention area than there is fill.

Bayer asked staff to respond to the request to delete Condition #1.1.19 of the use permit regarding the floor elevation in relation to the parking lot. Hill explained that the staff was attempting to point out that the building and that pad site will appear to be sitting above everything else because the rest of the development is sitting below. The examples given

by the applicant today were a very narrow vision of what a building would look like. Looking at it from a broader view, that one particular pad site will be standing up above everything else. It is the fact that it will appear to be setting on a pedestal as compared to the rest of the development. Staff had suggested that there are other ways to design the parking lot rather than a flat slab. There are places where you can terrace the parking lots, etc. We don't want the steep slopes in the parking lots.

Response by the Applicant

**Don Linscott** discussed the water detention. He displayed a map showing the permanent area of the Corps easement. There are about 9.5 acres on the west side that will remain in the easement and there are about 8.5 acres that will remain in Mr. Hamann's permanent easement. The Corps has approved the proposed mitigation. We will end up with more storage for detention than we had before so we are making it a better situation.

Linscott believes this is an exciting project and they have come up with some new ideas that are not in our community today. We've already submitted some brick colors that will be in the project.

Carlson inquired about Lot 2 being raised up. Linscott agreed to work to try to minimize it but they are trying to grade it to work in with the whole area. If they can bring it down a foot or two, they certainly will. But they have to look at the ingress off 70th and Pioneers to make sure it will all work. Carlson sought confirmation from the applicant that keeping it up high makes the parking lot work better for the development. Linscott stated that the ingress and egress off Pioneers is fairly high, so there are some restraints with only two points of entry. There are constraints they have to work with engineering-wise. They had not really made a concentrated effort as to how this was all going to be grade-wise, but now that they know it is there, they will certainly take a look at it.

Public hearing was closed.

**CHANGE OF ZONE NO. 3263****ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Carlson moved approval, seconded by Duvall and carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

**USE PERMIT NO. 130****ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Carlson moved to approve the Planning staff recommendation of conditional approval, with amendment for the alternative language in Condition #1.1.5 and deleting Condition

#1.1.19, as requested by the applicant, seconded by Hunter and carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

**PRELIMINARY PLAT NO. 00016**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Duvall moved to approve the Planning staff recommendation of conditional approval, with amendment to Condition #1.1.2 the same as Condition #1.1.5 of the use permit, seconded by Hunter and carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

**CHANGE OF ZONE NO. 3272**

**FROM AG TO R-3**

**and**

**PRELIMINARY PLAT NO. 00021,**

**HARTLAND HOMES EAST 1ST ADDITION,**

**and**

**SPECIAL PERMIT NO. 1313A**

**TO AMEND THE BOUNDARIES AND LEGAL DESCRIPTION,**

**and**

**SPECIAL PERMIT NO. 1876,**

**FOR AN EARLY CHILDHOOD CARE FACILITY,**

**ON PROPERTY GENERALLY LOCATED**

**AT SOUTH 84TH AND OLD CHENEY ROAD.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 18, 2000

Members present: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer.

Planning staff recommendation: Approval of the change of zone; conditional approval of the preliminary plat, deferral of Special Permit No. 1313A, and conditional approval of Special Permit No. 1876.

Carlson moved to defer Special Permit No. 1313A, as requested by the staff, with continued public hearing and administrative action scheduled for November 1, 2000, seconded by Duvall and carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

**Proponents**

1. **Lyle Loth of ESP Engineers** testified on behalf of **Hartland Homes, Inc.**, the developer.

Loth agreed with all conditions of approval, except #1.1.2 of the preliminary plat dealing with providing access to the 6.2 acre site at the southeast corner of the project. There is currently an application to change the zone on that site to B-2 which is pending at City Council. If this corner were to develop either commercially or as a multi-family project, this developer believes that the routing of the traffic generated by either one of those projects through a single family neighborhood would not be appropriate. The better access would be a right-in right-out intersection on either or both of 84<sup>th</sup> and Old Cheney Road. If that corner is developed commercially or as multi-family we would not provide access in either location. If it were developed as single family residential, this applicant is agreeable to providing that access. Therefore, Loth submitted proposed revision to Condition #1.1.2:

Provide a street connection to the property to the south to the satisfaction of the Planning and Public Works & Utilities Departments provided that the property to the south is developed as single-family residential. If the property is developed as commercial or multi-family, no street connection will be required.

Hunter wondered whether this developer would have to give up a lot if that corner turned out to be residential, with a cul-de-sac on one side. Loth advised that a tentative layout showed the street coming in from the north off of Wendall Way and that street would take one lot. The fact that we would be creating two corner lots would require us to lose a second lot. With single family it would be one street down the center with a cul-de-sac terminating at the south end.

If the corner that is not part of this application does not have access into this development, Schwinn wondered whether that corner will only be allowed a right-turn in right-turn out because of the proximity to 84<sup>th</sup> and Old Cheney. Steve Henrichsen of Planning staff stated that if there is no access from this subdivision, then the City would be required to provide access to that corner from 84<sup>th</sup> or from Old Cheney Road. Schwinn wondered about a break in the median there. Dennis Bartels of Public Works would not recommend any medians there. The functional plans have been approved for 84<sup>th</sup> and Old Cheney and there are no median locations shown. The commercial area only adds more traffic to both those streets and it would not be the city's recommendation to put an additional median opening there. That is why Public Works has recommended residential zoning on that corner.

Schwinn suggested that if the applicant's amendment is used, traffic would have to go back through the neighborhood to go left. Bartels agreed that to be his concern. You would end up using the neighborhood street so it is not a good situation without access.

The staff does not support the proposed amendment to Condition #1.1.2.

Public hearing was closed.

**CHANGE OF ZONE NO. 3272**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Duvall moved approval, seconded by Carlson and carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

**PRELIMINARY PLAT NO. 00021**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Carlson moved to approve the Planning staff recommendation of conditional approval, seconded by Schwinn.

Duvall moved to amend to use the applicant's proposed amendment to Condition #1.1.2. Motion failed for lack of a second.

Motion for conditional approval as set forth in the staff report dated October 10, 2000, carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

**SPECIAL PERMIT NO. 1876**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Schwinn moved to approve the Planning staff recommendation of conditional approval, seconded by Duvall.

Hunter had a concern about the applicant's letter which reserves the right to apply for other special permitted uses, i.e. clubs. Henrichsen explained that the applicant is merely listing the permitted special uses of the R-3 district. Anyone has the right to apply for those uses in the R-3 district. The clubs referred to include something like the American Legion, Elks, etc.

Motion for conditional approval as set forth in the staff report dated October 5, 2000, carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

**USE PERMIT NO. 99B**  
**TO ENLARGE THE GROUND SIGN**  
**ON PROPERTY GENERALLY LOCATED**  
**AT SOUTH 27TH AND PINE LAKE ROAD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 18, 2000

Members present: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer.

Planning staff recommendation: Denial.

Proponents

1. **Mark Hunzeker** appeared on behalf of **Union Bank**. The proposed new sign is for the Union Bank facility on South 27<sup>th</sup> Street just north of the new Walgreens and Shopko buildings going in at the corner of 27<sup>th</sup> and Pine Lake. The staff report states that the development envisioned in this area has not been changed since the use permit was approved for the bank. Hunzeker believes this is an overstatement. The original vision was for a "One Pacific Place" type upscale retail center at the corner of 27<sup>th</sup> and Pine Lake Road which is one of the reasons the bank took effort toward an attractive structure. They need some additional identification from the north as you approach the building on 27<sup>th</sup> Street. The existing sign at the base of the building is obstructed from view by effective landscaping. There is some truth that this will not be visible from a long distance because of the landscaping but it will improve the visibility from the north.

As stated in the report, the north wall of the building of this bank is permitted to have sign coverage of up to 250 sq. ft. Hunzeker pointed out that the bank could put a wall sign on the penthouse of this building that would be visible from a very long way. However, they are not interested in doing that. If they are allowed to do this larger ground sign, the applicant would be willing to add a phrase to Condition #2: "This approval permits a 70 sq. ft. ground sign in lieu of a wall sign on the north side of the Union Bank Building". This is a good trade-off--a fairly insignificant increase in the signage along 27<sup>th</sup> Street in the form of a ground sign to give some modest improvement in visibility against the possibility of a larger sign on the wall of the building.

Hunter inquired whether the signage is allowed only for the owner of the building, i.e. Union Bank. In other words, could they put up a sign for a tenant? Hunzeker believes it would be possible for a tenant to put up a sign as long as it is an on-premise sign, but this bank occupies all of the existing building. The property on the south side of the driveway is zoned B-2 so the signing regulations are different.

Steward inquired whether Union Bank would consider giving up the electronic version of the sign. Hunzeker did not believe so; however, he has not asked them that specifically.



They want the ability to have the public service portion of the sign.

There was no testimony in opposition.

Hunter inquired about the Shopko signage. Mike DeKalb of Planning staff indicated that Shopko has a large wall sign. The ground sign identifies the center. There is an existing ground sign across the street from this application which he believes to be 8' high, 50 sq. ft. There are no pole signs.

DeKalb stated that O-3 zoning allows 32 sq. ft., 8' high. B-2 allows 50 sq. ft. The staff tried hard on the other three corners to keep pad site signs down to 50 sq. ft. and 8' high, but there was a tradeoff on DuTeau where they were allowed two ground signs in lieu of a pole sign.

Steward asked whether there are any distinctions in the regulations between electronic and static in this district. DeKalb advised that the code allows a specific size of sign and within that size you can do electronic message centers up to 80 sq. ft. maximum. They could have a 50 sq. ft. message center on this sign.

Carlson thought it appeared that the proposed sign is 8' tall, but just wider. DeKalb clarified that the existing sign is approved for 32 sq. ft., 8' high on a pedestal. The proposed sign would be generally equivalent to what is there, doubling the size of the sign face to accommodate the electronic message center.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Duvall moved approval, with conditions, including the additional language to Condition #2 proposed by the applicant, seconded by Krieser.

Steward stated that he will vote against this. The problem he is having is that this area is predominantly B-2, although this particular site is in O-3. It is very small and for all intents and purposes the neighborhood will look upon this as something excessive to what a neighborhood zone signage intention is. We need to trust the character of the area.

Carlson is not thrilled about the message center. The size is less of an issue to him. Even with the distinct zoning areas, he doesn't see aesthetically that we will notice the change.

Motion for conditional approval, with amendment to Condition #2, carried 7-2: Duvall, Krieser, Carlson, Hunter, Schwinn, Taylor and Bayer voting 'yes'; Steward and Newman voting 'no'.

**SPECIAL PERMIT NO. 1877**  
**TO INCREASE LOT COVERAGE FOR A CHURCH**  
**ON PROPERTY GENERALLY LOCATED AT**  
**SOUTH 40TH STREET AND MOHAWK STREET.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 18, 2000

Members present: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer.

Planning staff recommendation: Conditional approval.

Proponents

1. **Steve Cook**, the architect for the applicant, 2845 Williams Street, presented the application.

The site plan shows the location of the existing church which has been there since about 1950. They did an addition in about 1958. In the mid 1990's, the church considered moving elsewhere, but one of the alternatives was to stay and be part of the neighborhood and they felt they wanted to do that. In 1998, they purchased four houses which have been sold and are being moved at this time. They are being moved for reuse. They have been moved across existing parking lots to save the existing trees. The final proposed layout includes a new sanctuary piece, new entry and increase in parking to about 97 stalls. On-site parking is currently 50-55 stalls. In phasing the construction, the plan is to build the parking to the east of the existing church building prior to construction of the new sanctuary. This will provide adequate parking for the church during construction. The character of the existing structure will be maintained with the new construction, including the gable ends and sloping roof.

Cook agreed with the proposed conditions of approval.

Hunter wondered whether the houses were being rented by the church. Cook indicated that the church had purchased the homes over the last few years and had rented some of them out. Hunter assumed that the rentals were a buffer between the church and the other houses. Cook agreed. The new plan requires 15' side yard setback and screening requirements. The existing parking lots were allowed to go well within the front yard setback on "C" Street and all the way to the property lines on the other sides. The church did buy the properties after the parking lots were in place, but he believes that as a whole it will be a better response to the neighborhood.

Carlson inquired whether they have worked with the neighbors and the neighborhood association. Cook stated that the church Executive Committee met last spring with the neighbors and there was another meeting last night. The church proceeded with the

planning at this point largely because the houses are being moved off the site much sooner than anticipated.

**2. Mildred Gardner**, 4030 C Street, testified in support, but wants to make sure they are required to fill in the basements where the four houses were removed and clean up the mess very promptly. The neighbors need assurance that the mess will be cleaned up.

There was no testimony in opposition.

Response by the Applicant

Cook advised that the buildings are being moved on Sundays and when the last of the four goes, the city requires that the basements be removed as part of the permit process for house removal and they are required to fill the basements back in. He anticipates that this will be done in the next week or two.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Duvall moved to approve the Planning staff recommendation of conditional approval, seconded by Schwinn.

Carlson thinks this is a good project. However, it is always better when the special permit is applied for before any of the houses are torn down. He understands that it is a timing thing, but it is assumptive to take the houses down and then come down and apply for the special permit for expansion or whatever. However, he reiterated that this is a good project.

Motion for conditional approval as set forth in the staff report dated October 4, 2000, carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

Note: This is final action unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days following the action of the Planning Commission.

**SPECIAL PERMIT NO. 1880**  
**FOR A PERSONAL WIRELESS FACILITY**  
**ON PROPERTY GENERALLY LOCATED**  
**AT SOUTH 84TH AND "A" STREETS.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 18, 2000

Members present: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer.

Planning staff recommendation: Conditional approval of an 85' tower.

Proponents

1. **Jill Bazzell of Qwest Wireless** presented the application. This is to replace an existing light pole at Indian Hills Church at 84th & "A". There is no established neighborhood for this area. They did obtain addresses of the houses closest to this project and sent flyers to them. Qwest did not receive any objections. Bazzell cautioned that if they do extend the tower to the 85' height (as opposed to 69') as requested by the staff, it looks less like the light pole and more like the cellular antenna.

Opposition

1. **Rex Schultze**, 8537 Chaparral Circle, testified in opposition. He does not have any objection to the 69' pole, but he does object to the increased height to 85', when it no longer looks like a flag pole. As long as the tower blends into the general makeup of the neighborhood and the existing parking lot, the neighbors do not object. But by making it 85', it tends to stand out more. Schultze believes the 69' height is sufficient.

Staff questions

Steward confirmed that the additional recommended height is to accommodate collocation. Jennifer Dam of Planning staff concurred. The ordinance requires towers under 100' in height to provide for one additional carrier. The staff is not aware of any interested collocations for this site at this time.

Schwinn thinks that collocation in this particular instance might be better on another light pole rather than on this one. Dam agreed that this parking lot is very large with a lot of light poles, so there would be opportunities for a more camouflaged design in the future to incorporate with one of the other light poles.

Carlson noticed that this pole is kind of on the periphery of the parking lot and he assumed that normally the staff would like to see it more on the interior. Dam noted that they

requested this corner on this particular site. In this particular location, it is downhill a little bit and there is a tree line around the end of the turnaround so it seemed that this was a good location because it is fairly well screened and is not directly behind anyone's back yard.

Bazzell advised that the landowner specified this light pole.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Hunter moved to approve the Planning staff recommendation of conditional approval, with amendment to 69' (as opposed to 85'), seconded by Duvall.

Hunter believes that this is probably the first application she has seen that may be a single use on a single pole and not an infringement on the residential area around it.

Dam advised that Condition #2.1.3 and Condition #2.1.4 would need to be deleted if the tower is approved at 69'. This was agreed to by Hunter and Duvall.

Motion for conditional approval, with amendments, carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

Note: This is final action unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days following the action of the Planning Commission.

**PRELIMINARY PLAT NO. 00010**

**PINE LAKE HEIGHTS SOUTH 3RD ADDITION,**

**ON PROPERTY GENERALLY LOCATED**

**EAST OF SOUTH 27TH STREET, 1/4 MILE NORTH**

**OF YANKEE HILL ROAD.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 18, 2000

Members present: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer.

Planning staff recommendation: Conditional approval, as revised on October 18, 2000, to add Condition #1.1.12.

Steve Henrichsen of the Planning staff amended the staff recommendation to add Condition #1.1.12, which is necessary since the staff is recommending denial of the waiver of block length.

Proponents

**1. Jack Lynch of Olsson Associates** appeared on behalf of Southview, Inc. and Ridge Development Company, the developers. This is simply a single family plat that will finish out the development pattern between 27th and 40th Street down to Yankee Hill Road. He agreed with all of the conditions of approval, except #1.1.12 submitted today. The staff report refers to this application not being so sensitive to the environment; however, Lynch noted that by the natural terrain they have created some walkouts so that the dead-end cul-de-sac sits as the highest part of the property. Staff is requesting a road extension in part of the steepest part of the property. The applicant would request to put in a pedestrian easement to move pedestrians back and forth and leave the cul-de-sac as shown.

There was no testimony in opposition.

Carlson inquired about the block length waiver. Henrichsen clarified that there are multiple locations or other changes to the lot configuration that could be done. Condition #1.1.12 does not dictate a specific location on the steepest part of the site. The staff is just requiring revision to meet the block length requirement of 1320'. The reason staff is recommending this is that it adds more travel time to all of the residents to get to their destinations every trip every day. The 1320' block length is for the traveling public and the future residents of this area. Staff is recommending some type of connection between O'Neil and O'Malley. We leave it up to the applicant as to how they meet that standard.

Response by the Applicant

Lynch believes the most logical place to connect those two streets is at the end of the cul-de-sac. If you move it to the west, you get into problems with four-way intersections. If you move it further west, we get such small blocks that it isn't very efficient. The only way they can go is to the north to shorten that block up.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Duvall moved to approve the Planning staff recommendation of conditional approval, with amendment deleting Condition #1.1.12, seconded by Steward.

Carlson believes the topography argument is compelling, but the staff argument is compelling also and he respects the professionalism of the staff.

Motion for conditional approval, with amendment deleting Condition #1.12 carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

**COMPREHENSIVE PLAN CONFORMANCE NO. 00008**  
**FOR A PERMANENT CONSERVATION EASEMENT**  
**ON 0.16 ACRES OF FLOODPLAIN GENERALLY LOCATED**  
**AT SOUTH 6TH AND "H" STREETS.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 18, 2000

Members present: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer.

Planning staff recommendation: Deferral until November 1, 2000, in order to advertise a revised legal description.

Duvall moved to defer with continued public hearing and administrative action scheduled for November 1, 2000, seconded by Hunter and carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

There was no public testimony.

**STREET VACATION NO. 00017**  
**TO VACATE NO. 40TH STREET FROM THE**  
**JOHN DIETRICH TRAIL, NORTH TO THE TERMINUS**  
**OF NORTH 40TH STREET.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 18, 2000

Members present: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer.

Planning staff recommendation: A finding of conformance with the Comprehensive Plan and conditional approval.

Proponents

**1. Bruce Jansen, Vice-President of Concrete & Construction Concepts, and Jim Springer, President of Concrete & Construction Concepts,** presented the application.

They do understand the condition requiring utility easements. The existing pavement adjacent to Lot 39 is required to be removed and replaced. Jansen agreed that they began paving before they received approval to pave. They paved half of the street in front of the

C&C Concepts property to eliminate the 8-10" of mud that developed every time it rained. They agree to tear it out and repave it.

C&C Concepts has agreed to purchase the whole street and deed it back to the other abutting property owners and to give all the neighbors a permanent easement for access onto the street.

Steward confirmed that this has been and will continue to be a dead-end. The applicant is aware of this and understands that the city has no plans to extend the street. Steward asked whether there would be a turn-around. C&C will be putting in a turn-around. It will be paved as a city street in order to add value to the adjacent properties.

There was no testimony in opposition.

**ADMINISTRATIVE ACTION BY THE PLANNING COMMISSION:** October 18, 2000

Taylor moved approval, with conditions, seconded by Hunter and carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

**STREET VACATION NO. 00018**  
**TO VACATE WEST N STREET**  
**FROM THE WEST LINE OF S. CODDINGTON AVENUE**  
**WEST APPROXIMATELY 300'.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:** October 18, 2000

Members present: Duvall, Krieser, Carlson, Steward, hunter, Schwinn, Newman, Taylor and Bayer.

Planning staff recommendation: A finding of conformance with the Comprehensive Plan and conditional approval.

The petitioner was not present.

Opposition

1. **Joe Quattrocchi**, 2101 Green Acres Blvd., testified in opposition on behalf of the Quattrocchi Estate, owner of the property at the west end of N Street. Over the past years they have lost about half the property to condemnation for the bypass. It is zoned commercial. He believes the property is in dire need of the street and he sees no reason to close it. He believes that they have given up more than enough for the public use. He does not believe they need to give up any property for one individual.



Staff questions

Rick Houck clarified that Quattrocchi's property is Lot 125, directly west that takes access off either West "N" or West "M". Public Works is recommending denial until the replat is reviewed. Houck stated that one of the conditions of approval of the street vacation is subdivision of the property to provide access to Lot 125.

Steward thought that all adjacent property owners must agree and sign the petition to vacate. Houck concurred; however, the end of the street is not considered abutting property. Right now Mr. Quattrocchi could not come in and build on his lot and take access off of West "N" Street without replatting and providing access. There is no access to a public street now because access to West "O" Street was relinquished due to the bypass exit ramps. However, there is a service road off of "O" Street.

Bayer clarified that if the vacation is approved, the conditions provide that the street cannot be vacated until access is provided.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Duvall moved to deny, seconded by Hunter.

Hunter observed that if the applicant didn't find it important enough to show up for the hearing, it's probably not important enough to pass.

Motion to deny carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

**COMPREHENSIVE PLAN AMENDMENT NO. 94-52**  
**TO CHANGE FIGURE 16, LINCOLN LAND USE PLAN,**  
**FROM INDUSTRIAL TO COMMERCIAL AND RESIDENTIAL**  
**and**  
**ANNEXATION NO. 00001,**  
**and**  
**CHANGE OF ZONE NO. 3248**  
**FROM I-2 INDUSTRIAL TO B-2 PLANNED NEIGHBORHOOD BUSINESS,**  
**H-4 GENERAL COMMERCIAL AND R-3 RESIDENTIAL,**  
**and**  
**SPECIAL PERMIT NO. 1833,**  
**ASHLEY HEIGHTS COMMUNITY UNIT PLAN,**  
**and**  
**PRELIMINARY PLAT NO. 00005,**  
**ASHLEY HEIGHTS,**  
**ON PROPERTY GENERALLY LOCATED AT**  
**N.W. 48TH AND WEST ADAMS STREET.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 18, 2000

Members present: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer.

Planning staff recommendation: Approval of the Comprehensive Plan Amendment, Annexation and Change of Zone; and conditional approval of the community unit plan and preliminary plat.

Jennifer Dam of Planning staff submitted an email from the Arnold Heights Neighborhood Association in support with some concerns as detailed in the communication.

#### Proponents

**1. Mark Hunzeker** appeared on behalf of the developer, **M & S Construction**. This is a project that is finally putting to use some land that has been owned by the Lincoln Chamber Industrial Corporation for quite some time and to change the zoning of the property from I-2 to H-4, B-2 and R-3, and to develop a residential subdivision on a substantial portion. This is an area that is in need of residential lots and commercial services.

This developer has been through several incarnations of this project. The initial proposal converted all of the area, except that area shown at B-2, into residential. They then moved toward a slightly modified version moving the residential further south to line up with the existing south line of Sunhusker Foods. Then they came to the current configuration which

shows that this developer is doing what it can to provide a buffer for the new residential from the industrial area.

This development provides a 120' wide drainage corridor with a minipark. There is a 60' setback from the property line of the property being zoned to H-4 with landscaping before any commercial development can occur. There are also restrictions agreed upon which limit the uses in the south 200' of the H-4 area to uses which are relatively low traffic and low impact type uses in order to facilitate the transition from residential to the commercial.

This applicant has not submitted a use permit for the B-2 district because the area isn't quite ready yet for a grocery store and neighborhood type shopping center; however, upon completion of the residential development, it is likely that there will be sufficient rooftops in the area to justify construction of the grocery store. Hunzeker is hopeful that the applicant can be back here within a reasonably short period of time with a use permit to show a layout for a neighborhood shopping center.

Hunzeker stated that there was a traffic study done which indicates that when the B-2 area is developed, they will need to be making some improvements for access. The agreement on these improvements has been deferred until we know the configuration of the shopping center and total square footage.

Hunzeker then addressed the conditions of approval. With respect to the conditions for the annexation agreement, the staff is requiring that it be revised to indicate that the City will subsidize only the 15" sanitary sewer line upstream from manhole 32. This issue is still under negotiation with the Public Works Department and Hunzeker requested that the phrase be added, "if required by Public Works". This will be resolved prior to going to the City Council.

With respect to the community unit plan, Condition #1.2.8 requires a walkway to the park that is a minimum of 6' in width, designated to meet accessibility guidelines and within a 10' easement. Hunzeker has discussed this with the Parks Department and they have agreed that the 10' easement would be a 6' easement, i.e. a 6' path and a 6' easement. With respect to Condition #1.2.9 to revise the plan to show 10' pedestrian way easements, Hunzeker advised that the staff has agreed to reduce this to 5' pedestrian way easements. These same revisions appear in the preliminary plat as Condition #1.1.8 and #1.1.9.

With regard to Condition #1.2.4 of the community unit plan relating to sidewalks on the south side of W. Adams Street (Condition #1.1.4 of the plat), Hunzeker pointed out that West Adams currently terminates at the east end of the Sunhusker Foods property. They have had numerous meetings about extension of West Adams Street. The area to the east is in the floodplain and shown as industrial and it is unlikely that that street will be needed.

The developer has agreed with the City that they will pave that portion of W. Adams to a certain point, but the likelihood of development in this area occurring any time in our

foreseeable future is very light. Hunzeker requested a waiver of the sidewalks on the south side of Adams Street. This is a justifiable request and would require deletion of the language in Condition #1.2.4 of the special permit and #1.1.4 of the plat, "and the south side of West Adams Street adjacent to this plat".

Hunzeker stated that this developer has assumed the obligation of the Airport Authority to step up to a share of the paving in West Adams Street. This developer is putting in a lot of improvement there that probably is going to get almost zero use. Hunzeker indicated that the staff is not necessarily in complete agreement on this issue.

Steward asked whether the applicant has had discussions with staff with regard to the landscape plan. Hunzeker answered in the affirmative. There is a requirement to meet the landscape screening requirement. The applicant has agreed to meet the city design standards; however, this may not have yet been submitted.

Duvall asked whether the applicant has worked with the neighbors. Hunzeker stated that they met with the Arnold Heights group last week and they still have some questions. However, his impression is that they are generally supportive of the project but they do have a few questions. The applicant has offered to meet with them again between now and the City Council to get those questions and concerns answered.

The applicant met with its industrial neighbor last week and Hunzeker is not sure there is anything that can be done that will alleviate the concerns expressed. Hunzeker believes this developer has done quite a bit to buffer this development from the industrial user. Much of that came at the behest of the staff and the Health Department and he is confident that in terms of selling lots and having people living in this vicinity, these residential lots are at least as far away from the industrial user as the ones already there on the west side of N.W. 48<sup>th</sup> Street.

Hunzeker advised that the residential area will be moderate income homes. It will not be subsidized housing, but they will not be the top end, with price range of \$110,000 to \$150,000. The townhouse product will be three-bedroom, two-story, ranging from \$105,000 to \$110,000 per duplex unit. The residential range would be \$115,000 to \$150,000. They would be considered starter homes, 1120 - 1200 sq. ft. ranch type.

### Opposition

**1. Charlie Humble** testified in opposition on behalf of **R.E. Meyer Co.**, known as Sunhusker Foods, along with **Steve Sands, Vice President of R.E. Meyer Co.**, 4611 W. Adams. Sunhusker is located right at the corner of N.W. 48<sup>th</sup> and W. Adams, on 15 acres of I-2 zoning. It has been Sunhusker Foods for 10 years, now known as R.E. Meyer since April of this year.

**2. Steve Sands** also testified in opposition. He suggested that locating residential uses next to I-2 zoning makes no sense for the residential neighbors or for the R.E. Meyer business. R.E. Meyer Co. was formed in April of this year, purchasing Sunhusker Foods and Standard Meat Co. Sands was President and CEO of Standard Meat Co. The company then also folded in the assets of Meyer Natural Angus. This is actually a vibrant stroke for Lincoln because it was the type of merger that created jobs instantly and no one was laid off. They are in the process of folding the Standard Meat operation on Van Dorn into the R.E. Meyer facility on West. Adams. There are 3 million pounds of product coming in every month and 3 million pounds leaving every month. Lots of trucks. Every day R.E. Meyer generates 20,000 pounds of inedible product—bones, fat, blood, guts. R.E. Meyer receives the animal hanging on the hook and breaks it down into its constituent muscle parts.

Sands believes that R.E. Meyer/Sunhusker has been a good neighbor to Arnold Heights because they sought to mitigate the impact on Arnold Heights by having their docks and lighting on the east and south, etc. All of those mitigations that benefitted Arnold Heights would negatively impact Ashley Heights. For example, there are a lot of flies and smells generated at this site. The prevailing wind pattern goes directly into Ashley Heights away from Arnold Heights. R.E. Meyer also produces a cooked product, half of which goes to Japan and overseas. Cooking creates smells and those smells and odors are vented. R.E. Meyer intends to increase its cooking capacities.

Sands also believes that there are traffic pattern problems. Where 45<sup>th</sup> is platted goes right by the R.E. Meyer dock. The recreational areas are north of 45<sup>th</sup> so there will be lots of kids riding bikes right past the docks. R.E. Meyer run two shifts, with a third shift that does cleanup. They are always operating. R.E. Meyer has over 200 employees with an annual payroll in excess of 5 million dollars. Most of what R.E. Meyer sells is outside the confines of Nebraska.

Sands advised the Commission that when Mr. Meyer invested millions of dollars to bring the three companies together, he didn't know about this proposed change in zoning. Meyer was assured that when the area was platted as Lincoln Industrial Development Corp. 10 years ago, they did not expect residential uses, and Meyer did not expect residential when he bought it 6 months ago. This caught R.E. Meyer by surprise and they see many, many problems. "We think its going to paint us into a box where we're a bad neighbor." The meat industry fights issues every day. Meat industry is a hard industry to site. R.E. Meyer has a site, has been there and has been a good neighbor. R.E. Meyer does not want to be sent up to incur the wrath of their neighbors.

R.E. Meyer Co. is adamantly opposed to the change of zone. It would jeopardize their future growth and legitimately jeopardize the current business as they operate it today. They have dangerous equipment. This residential development will bring lots of kids and pets to this area.

Humble further testified that this is a bad mixture of land uses. From a land use perspective, taking the I-2 area and to say that, "this is the solution to the problem of why it didn't go", is a very bad solution. Think of it in terms of R.E. Meyer being the applicant. Let's say the 300 houses are there and in we come and ask for I-2 on the corner so that we can put in our meat plant. What do you think the staff recommendation would be that kind of request? Humble predicts that it would be immediate denial. R.E. Meyer is there first. Locating residences here will cause problems. Yes, the Comprehensive Plan for Greater Arnold Heights called for additional housing, but there are residential opportunities to the west of N.W. 48<sup>th</sup> Street. To put residential in an industrial park and an industrial area is very bad planning and this business will bear the brunt of it.

Steward inquired whether R.E. Meyer handles any toxic materials and whether all of the liquid waste is going into the city sanitary system. The General Manager of R.E. Meyer stated that they do not have any toxic chemicals on the property. They do discharge into the sanitary sewer, going into a grease trap first.

Bayer confirmed that part of the issue is R.E. Meyer feels like it will be forced out. Humble's response was that R.E. Meyer wants to add employees, they want to add shifts, and they want to add building. They cannot be forced to close down and leave.

Bayer wondered whether there would be room on the 15 acres to add building. Humble answered in the affirmative. There is no hidden agenda--we just know that meat companies and residential do not mix well.

Schwinn recalled the Standard Meat Co. property at the Van Dorn Bypass, noting that at that time the Health Dept. had tremendous reservations about residential being located that close to an industrial site, and yet we have a letter from the Health Department on this application that does not show a lot of concern about residential uses being located next to this meat packing plant. Jennifer Dam of Planning staff explained that the existing residential uses are closer to R.E. Meyer/Sunhusker than the proposed residential. The closest house in the existing residential area is 110' away. Planning staff viewed this proposal as reducing the large area of potential industrial uses and making it better for the existing areas to the west. Since Sunhusker Foods (R.E. Meyer) is already there, the purchasers of the homes would know it was there at the time of purchase of the lot.

Bayer wondered whether an expansion of Sunhusker Foods would come through the permit process with opportunities for public hearing that could potentially prevent them from expanding. Dam advised that it would go through the building permit process.

Carlson asked for a response to the concerns raised in the communication from the Arnold Heights Neighborhood. With regard to the traffic study, Dam advised that the staff has agreed to hold off on any required improvements until they actually have a user for the B-2 area. The residential and commercial traffic generated is probably less than what could

be developed by right under the existing I-2 district. In terms of access, there would be two points--one going north on N.W. 45<sup>th</sup> and out W. Adams, and out W. Huntington Street. If the area to the south ever develops, that could provide additional access in the future. There are provisions for stubs to the south. In terms of school transportation, this area is within the area that would have busing to Arnold Heights Elementary School. The children who live in Lincoln Heights are currently bused. School capacity has not been discussed.

Dam also advised that the minipark location was determined between Parks and the developer and Parks believes it to be a suitable location for the minipark.

Stepping back in the overall matter of the Comprehensive Plan and good planning principles, Steward thought that the point raised about who was there first is an excellent one. The industrial proposing to be in such close proximity to housing would be a serious question if that were the case. What is the staff rationale, on a broad principle basis, for allowing these proximities? Dam clarified that as approved today, this entire area is zoned I-2, which puts a greater area of residential uses closer to industrial. The proposed Comprehensive Plan amendment reduces the amount of residential being adjacent to industrial. If Sunhusker Foods came in today and requested industrial on that corner and the residential was already in place, she agreed that the staff would not likely recommend approval. However, this proposal makes it better and moves the proposed residential uses further way from the industrial.

Taylor's concern is the distance between the residential and the industrial. Dam reiterated that the closest house in this proposal would be over 300' away. The closest existing house to the industrial is 110'. On an average, the existing houses are about 300' away.

Taylor asked whether there is any concern about the odors, etc. Dam thought that the prevailing winds in the summer came out of the southwest and would blow the odors a different direction and in toward the airport.

Bayer stated that he's a little nervous that it is going to be difficult to sell a house because it is going to smell and there are going to be trucks all the time. Is there any precedence to require a condition that says prospective buyers be notified of what's there? Dam explained that currently, the city requires owners to be notified of soil conditions and she thought a condition could be added to require that owners be notified of the Sunhusker Foods use.

#### Response by the Applicant

Hunzeker is not sure the distance is a critical factor but it might be easier to keep this in perspective by looking at the aerial photo which shows the subject property and where the residential area is located with respect to the industrial. The applicant believes that the

area to the east provides some transition. This applicant had intended to leave it zoned industrial but, at the request of the Planning staff and the Health Department, they are requesting to change the zoning on this 40+ acres to Highway Commercial. Hunzeker submitted that the distance from the closest residential lot to Sunhusker is closer to 500' than any other numbers that have been discussed. This development is pretty well buffered relative to the existing residential and it may be the case that there are concerns on the part of R.E. Meyer that they may in the future begin to emit odors, but it is Hunzeker's understanding that over the last 10 years they have had four complaints. The prevailing wind in the summer is out of the southeast and southwest. When windows are likely to be open and humidity likely to be high, the winds are coming out of the south. None of that seemed to bother Sunhusker Foods when they located their plant at its existing location when all the residential that exists to the northwest was already in place. There is a considerable distance from their property line to their existing plant. Hunzeker pointed out that this applicant is very comfortable in marketing residential units in this location. If there needs to be some disclosure provision to prospective buyers, he would agree, but he thinks it is fairly obvious and something that will be hard to miss for anybody that goes out there to look at a lot.

Hunzeker submitted that this is very positive for the Arnold Heights neighborhood; the housing is needed and the shopping is needed. Without the rooftops the shopping is not likely to happen.

Hunter was interested in knowing the uses that might be located on the B-2 zoned property. Hunzeker indicated that they are hoping for a grocer to anchor a neighborhood shopping center, including the usual kinds of neighborhood shopping stores, i.e. drug store, ancillary retail to go with the grocer, etc. The grocers are telling this applicant that there aren't enough rooftops for a grocery store without this development.

Public hearing was closed.

**COMPREHENSIVE PLAN AMENDMENT NO. 94-52****ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Duvall moved to deny, seconded by Steward.

Duvall commented that this property is industrial and it has always been that way. They still share the same road going out 45<sup>th</sup> Street so there is going to be a lot of traffic going by. He believes the property should remain industrial.

Hunter observed that this is really an almost reversal of the type of thing the Planning Commission would normally see. With industrial on the north side of West Adams and the uses of that property that are on the south side of West Adams, she feels like the R.E. Meyer Co. probably instituted their business there with the future expectation that there



would be other industrial uses that would surround them and not that they would end up being surrounded by residential uses. She does not think this is the appropriate area for more residential development.

Steward believes it's a philosophical point of view. He does not like the idea of changing the Comprehensive Plan in this particular way. Secondly, he thinks we are being asked to look at the potential of middle income housing when, in effect, with the other surrounding circumstances of an industrial facility, it creates the high potential for low income, ghettoization of less than desirable properties, and that will cause them to be downgraded from an economic point of view just in order to make the property pay. He does not think it is a good idea.

Taylor agreed with Steward and Hunter. If you have been in an area of packing house odors, you know the residential is going to be degraded.

Bayer was torn. The argument that the industrial has always been there is a strong one. The counter is that "the only thing that has gone there is this", implies that there is not a lot of desire for industrial in that area. With regard to affordable housing, he believes that this is almost infill because there is already housing to the west and northwest. He thinks he likes the idea. What got him is when the applicant said Sunhusker wasn't concerned about the smell when they put themselves there ten years ago. He can see both sides and we just have to weigh the priorities. Bayer is excited about affordable housing.

Schwinn was also torn with mixed emotions. He believes that the B-2 zoning is very, very appropriate and it will be a great location for the services needed in that neighborhood. He has concerns that we approved a huge subdivision to the west that never got built. He is fearful that the market isn't there. As far as the arguments from Sunhusker, they are very compelling also, and he agrees that we probably would not have allowed them in this area if they came in later. However, all the land directly north of Sunhusker is zoned I-1, which does not mean there is going to be an end to industrial uses out there. He believes this is a good housing opportunity; he believes that we call for mixed uses and this is about as mixed as you are ever going to have. It is a "buyer beware" situation and that is not the Planning Commission decision.

Motion to deny carried 6-3: Duvall, Carlson, Steward, Hunter, Newman and Taylor voting 'yes'; Krieser, Schwinn and Bayer voting 'no'.

**ANNEXATION NO. 00001****ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Steward moved to deny, seconded by Duvall and carried 7-2: Duvall, Carlson, Steward, Hunter, Schwinn, Newman and Taylor voting 'yes'; Krieser and Bayer voting 'no'.

**CHANGE OF ZONE NO. 3248**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Duvall moved to deny, seconded by Steward and carried 7-2: Duvall, Carlson, Steward, Hunter, Schwinn, Newman and Taylor voting 'yes'; Krieser and Bayer voting 'no'.

**SPECIAL PERMIT NO. 1833**

**ASHLEY HEIGHTS COMMUNITY UNIT PLAN**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Steward moved to deny, seconded by Duvall and carried 7-2: Duvall, Carlson, Steward, Hunter, Schwinn, Newman and Taylor voting 'yes'; Krieser and Bayer voting 'no'.

**PRELIMINARY PLAT NO. 00005**

**ASHLEY HEIGHTS**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 18, 2000

Duvall moved to deny, seconded by Steward and carried 7-2: Duvall, Carlson, Steward, Hunter, Schwinn, Newman and Taylor voting 'yes'; Krieser and Bayer voting 'no'.

**SPECIAL PERMIT NO. 1865**

**FOR A WIRELESS FACILITY CONSISTING OF**

**A 68' TOWER AND ASSOCIATED GROUND EQUIPMENT,**

**ON PROPERTY GENERALLY LOCATED AT NO. 25<sup>TH</sup>**

**AND "Y" STREETS.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 18, 2000

Members present: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer.

The staff requested a deferral in order to properly advertise the waiver of fall zone and to receive additional information from the applicant for review.

Duvall moved to defer, with continued public hearing and administrative action scheduled for November 1, 2000, seconded by Hunter and carried 8-0: Duvall, Krieser, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'; Carlson absent at time of vote.

**SPECIAL PERMIT NO. 1872**

**FOR A DWELLING FOR A DOMESTIC EMPLOYEE**

**ON PROPERTY GENERALLY LOCATED**

**AT SOUTH 98<sup>TH</sup> STREET AND YANKEE HILL ROAD.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**     October 18, 2000

Members present: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer.

The applicant had submitted a written request for a two-week deferral. He has a revised plan and is working with the neighbors.

Steward moved to defer, with continued public hearing and administrative action scheduled for November 1, 2000, seconded by Duvall and carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

**COUNTY CHANGE OF ZONE NO. 201**

**FROM AG TO AGR**

**and**

**COUNTY PRELIMINARY PLAT NO. 00018,**

**ROCA RIDGE,**

**ON PROPERTY GENERALLY LOCATED**

**AT SOUTH 68<sup>TH</sup> STREET AND ROCA ROAD.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**     October 18, 2000

Members present: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer.

Mike DeKalb of Planning staff submitted a communication from the Village Clerk of Hickman, including a resolution adopted by the City of Hickman approving the change of zone in their area of jurisdiction to residential, and a resolution adopted by the City of Hickman approving the preliminary plat within their area of jurisdiction, with conditions, including changing the name of the plat.

**Proponents**

**1. Kent Seacrest** appeared on behalf of the applicant, **South 68<sup>th</sup> Street Partnership L.L.C.** This proposal for residential acreage development has been on the Planning Commission agenda for quite some time. The Comprehensive Plan shows the property as acreage development. The Mayor of Hickman raised concerns and issues and the Commission basically had a tie vote. The applicant then went to work and decided to figure out a win-win situation with the City of Hickman, which has jurisdiction over the

bottom 235 feet of the plat. Seacrest was proud to indicate that after four meetings with the City of Hickman City Council, they have received a positive recommendation on not only all of the county portion as well as their 235' interest, and that's the good news. The bad news is that this positive recommendation requires some changes to the design. This applicant feels obligated to resubmit showing the revisions. Therefore, Seacrest requested that this project be placed on pending to allow a resubmittal to be reviewed and come forward. The staff is suggesting deferral to a date specific as opposed to placing the application on pending.

Duvall moved to defer for six weeks, with continued public hearing and administrative action scheduled for November 29, 2000, seconded by Carlson and carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

### Opposition

**1. Paul Johnson**, 16900 So. 72<sup>nd</sup> Street, Hickman, testified in opposition. He agreed that the project had been approved by the City of Hickman, but the vote was 4-4 and the reason that it was done this way is because through this process they met with the City of Hickman and came up with a plan to scare people into it. They proposed 52 houses with a central sewage system. That is when the neighbors around the development got together and came up with some recommendations. But they met with Hickman. They didn't meet with the abutting property owners to discuss their concerns. They haven't addressed the abutting property owners at all. "Hickman" does not live next to this property. Just out of due courtesy it would be nice if the applicant would work with the adjacent property owners.

Bayer advised that the Commission clearly asks the developer to do that, but they can't be forced into it.

**CHANGE OF ZONE NO. 3238**

**FROM AGR TO R-3**

**and**

**CHANGE OF ZONE NO. 3239**

**FROM R-1 TO R-3**

**and**

**PRELIMINARY PLAT NO. 00001**

**HAWKSWOOD ESTATES**

**ON PROPERTY GENERALLY LOCATED AT SOUTH 70<sup>TH</sup>**

**STREET AND OLD CHENEY ROAD.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**     October 18, 2000

Members present: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer.

The applicant withdrew Change of Zone No. 3239.

The applicant requested that Change of Zone No. 3238 and Preliminary Plat No. 00001 be placed on pending.

Motion was made by Krieser, seconded by Steward, to place the change of zone and plat on pending to allow the applicant the opportunity to resubmit. Motion carried 9-0: Duvall, Krieser, Carlson, Steward, Hunter, Schwinn, Newman, Taylor and Bayer voting 'yes'.

There being no further business, the meeting was adjourned at 6:05 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on November 1, 2000.